



The State of New Hampshire

Department of Environmental Services



Michael P. Nolin
Commissioner

**ADMINISTRATIVE ORDER
BY CONSENT**

No. WD 06-021

William A. Gosse
311 Shackford Corner Road
Center Barnstead, NH 03225

Re: Septage Lagoon Facility
Prescott Road, Pittsfield, NH
Groundwater Discharge Permit
No. 199009020

A. INTRODUCTION

This Administrative Order by Consent is issued by the Department of Environmental Services, Water Division to, and with the consent of, William A. Gosse, pursuant to RSA 485-A. This Administrative Order by Consent is effective upon signatures by both parties.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly-constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, New Hampshire.
2. William A. Gosse is an individual having a mailing address of 311 Shackford Corner Road, Center Barnstead, NH 03225.

C. STATEMENTS OF FACTS AND LAW

1. RSA 485-A:4, XVI-a authorizes DES to regulate the removal, transportation, and disposal of septage through administration of a permit system. Pursuant to RSA 485-A:6, X-a, the Commissioner of DES has adopted New Hampshire Administrative Rule Env-Ws 1600 ("the Septage Rules") to implement this program.
2. RSA 485-A:13, I(a) authorizes DES to regulate the discharge of waste to groundwater through administration of a permit system. Pursuant to RSA 485-A:6, VII, the Commissioner of DES has adopted NH Administrative Rule Env-Ws 1500 ("the Groundwater Discharge Rules") to implement this program.
3. William A. Gosse is the operator and property owner of the septage lagoon facility located off Prescott Road in Pittsfield, New Hampshire, on property designated as Lot 4B on Town of Pittsfield Tax Map R-50 ("the Facility"). The Facility consists of two unlined septage lagoons.
4. Mr. Gosse disposed septage at the Facility under control of Groundwater Discharge Permit No. 199009020 ("the Permit"). The Permit expired October 16, 2002.

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-3503 • Fax: (603) 271-2982 • TDD Access: Relay NH 1-800-735-2964

DES Web site: www.des.nh.gov

5. On March 16, 2000, DES issued Mr. Gosse a letter requesting that he develop a response plan to address ongoing violations of Ambient Groundwater Quality Standards ("AGQS") for nitrate in several monitoring wells.
6. On April 4, 2000, DES issued Mr. Gosse a Septage Facility Closure Plan Approval in accordance with the Septage Rules.
7. On September 16, 2002, DES issued a letter to Mr. Gosse requiring monthly sampling of two monitoring wells for nitrate and TKN, and requesting an amended response plan ("the Plan") to address continued AGQS violations.
8. On September 23, 2002, DES issued a waiver allowing a time extension to Mr. Gosse to obtain a facility permit in accordance with the Septage Rules. This waiver expired September 23, 2003. This waiver required continued compliance with the Permit.
9. On March 17, 2003, DES issued a letter to Mr. Gosse requiring a more proactive and forceful approach to mitigate the ongoing AGQS violations. Results of the required monthly groundwater sampling have not been provided for the previous four months.
10. On April 8, 2003, Mr. Gosse submitted the Plan to DES stating that "active use of the Facility ceased as of March 28, 2003, a closure schedule will be submitted by July 1, 2003, and closure activities will be completed by the end of 2003."
11. On May 12, 2003, DES issued a letter to Mr. Gosse accepting the Plan with a January 1, 2004 closure completion date, and reiterating that monthly sampling of two monitoring wells for nitrate and TKN are part of the Plan.
12. On August 5, 2003, Mr. Gosse wrote to DES requesting an extension of time for closure completion to "late spring of 2004".
13. On August 13, 2003, DES issued a letter to Mr. Gosse granting a July 2004 date for final closure, and reminding him of his obligation to comply with the Permit until the Facility is closed.
14. On April 7, 2004, DES phoned Mr. Gosse and asked for status of closure activities. Mr. Gosse indicated that he may have trouble meeting the July 2004 final closure date.
15. On June 22, 2004, Mr. Gosse sent e-mail to DES requesting another extension of time for closure to December 31, 2004.
16. On June 24, 2004, DES responded to Mr. Gosse's e-mail and approved the December 31, 2004 final closure date.
17. On December 28, 2004, Mr. Gosse sent e-mail to DES requesting another extension of time for closure to July 2005.
18. On April 6, 2005, DES issued a letter to Mr. Gosse approving the backfilling of the small "dewatering" lagoon.

19. On August 31, 2005, DES issued Mr. Gosse the Letter of Deficiency #WSEB 05-128 ("the LOD"). The deficiencies noted in the LOD included Mr. Gosse's failure to institute the monthly monitoring of the two wells as part of the Plan, and failure to maintain bi-annual monitoring of groundwater as required by the Permit. The LOD required Mr. Gosse to submit a specific work plan and schedule by December 31, 2005, outlining complete closure by July 1, 2006.

20. On December 19, 2005, Mr. Gosse wrote to DES and stated that final closure will be completed by July 2007.

21. As of the date of this Order, Mr. Gosse has failed to undertake 6 bi-annual groundwater monitoring events as required by the Permit and 32 monthly monitoring events required by the Plan dating back to November 2002.

D. DETERMINATION OF VIOLATIONS

1. William A. Gosse has violated the Permit by failing to maintain groundwater monitoring as required by the Permit and the Plan.

E. ORDER

Based on the above findings, DES hereby orders William A. Gosse, and William A. Gosse agrees, to undertake and complete the following actions in accordance with the time schedules specified:

1. By **May 31, 2006**, Mr. Gosse shall submit a detailed schedule of closure activities needed to achieve complete closure of the Facility.

2. The detailed closure schedule shall at a minimum include: start and end dates of lagoon dewatering activities, start and end dates of septage solids excavation, proposed disposition of septage solids, start and end dates of septage solids testing (if applicable), start and end dates of lagoon bottom soils metals testing, start and end dates of lagoon backfilling activities, and if applicable a contingency plan if septage solids are determined by testing to not meet standards for land application.

3. By **December 31, 2007**, all septage management activities at the Facility will cease, with the exception of post closure groundwater monitoring.

4. In addition to quarterly (March, June, September and December) sampling of monitoring wells MWG 2 and MWG 3 for nitrate, Mr. Gosse shall continue to monitor groundwater in accordance with and follow all conditions of the expired Groundwater Discharge Permit No. GWP-199002020, until three consecutive post closure quarterly sampling events of monitoring wells MWG 2 and MWG 3 for nitrate and one post closure bi-annual scheduled sampling event indicate no violation of AGQS.

If post closure monitoring reveals continued violation of AGQS, Mr. Gosse may, by submission of supporting scientific data indicating an off-site contamination source, petition DES to waive continued monitoring and finalize the closure.

5. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order by Consent, to DES as follows:

Alexis Rastorguyeff, P.E., Residuals Management Section
DES Water Division
29 Hazen Drive P.O. Box 95
Concord, NH 03302-0095 Fax: (603) 271-4128
e-mail: arastorguyeff@des.state.nh.us

F. CONSENT AND WAIVER OF APPEAL

1. By execution of this Administrative Order by Consent, William A. Gosse agrees that this Order shall apply to and be binding upon him, and agrees that this Order may be entered and enforced by a court of competent jurisdiction.
2. By execution of this Administrative Order by Consent, William A. Gosse acknowledges that failure to comply with this Order may lead to DES imposing Administrative and/or Civil Fines against him.
3. By execution of this Administrative Order by Consent, William A. Gosse waives any right to appeal this Administrative Order by Consent provided by statute, rule, or common law, including without limitation the right to appeal to the Water Council, and waives any right to object to the entry and enforcement of this order by a court of competent jurisdiction.

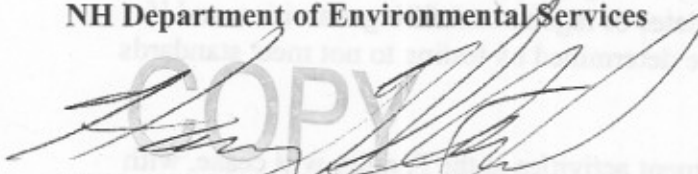
This Order is being recorded at the Merrimack County Registry of Deeds so as to run with the land.



William A. Gosse

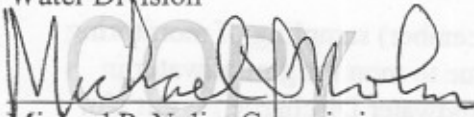
APRIL 25, 2006
Date

NH Department of Environmental Services



Harry T. Stewart, P.E., Director
Water Division

APRIL 25, 2006
Date



Michael P. Nolin, Commissioner
Department of Environmental Services

05 01 06
Date

Certified Mail/RRR: 7099 3400 0003 6155 1500

cc: Gretchen Hamel, DES Legal Unit
Jeremy Lamson, Pittsfield Town Administrator
cc: Public Information Officer, DES PIP Office
Mitch Locker, P.G., DES Water Supply Engineering Bureau